

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-116-RJC**

DONALD E. STILES, JR.,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
LARRY KEENER,)	
Haywood County Jail,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court upon receipt of a letter stating that the North Carolina prison system cannot locate Plaintiff in the prison system for purposes of submitting Plaintiff's inmate trust account statement to this court. (Doc. No. 5). Plaintiff filed this action on April 22, 2013, pursuant to 42 U.S.C. § 1983, naming as the sole Defendant Larry Keener, alleged to be a corrections officer at the Haywood County Jail. Plaintiff alleges that on March 29, 2013, Keener assaulted Plaintiff while Plaintiff was housed at the jail.

The current listed address for Plaintiff is the Haywood County Detention Center. On April 25, 2013, this Court entered an Order directing Plaintiff's custodian to submit an inmate trust account for Plaintiff. (Doc. No. 3). By letter dated May 7, 2013, the North Carolina Department of Public Safety informed the Court that it has been unable to locate an inmate with Plaintiff's name currently or previously housed with the Department. (Doc. No. 5). This Court will, therefore, dismiss this action without prejudice because Plaintiff has failed to notify the Court of his change in address. Accord Walker v. Moak, No. 07-7738, 2008 WL 4722386 (E.D. La. Oct. 22, 2008) (dismissing without prejudice a §1983 action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure where the plaintiff did not notify the court of

his new address upon his release from jail).

IT IS, THEREFORE, ORDERED that:

1. This action is **DISMISSED** without prejudice.
2. The Clerk is directed to terminate the case.

Signed: May 17, 2013



Robert J. Conrad, Jr.
Chief United States District Judge
